

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2200-04
Bill No.: HCS for HB 945
Subject: Cemeteries; Funerals and Funeral Directors; Insurance Dept.
Type: Original
Date: April 14, 2009

Bill Summary: Changes the laws regarding cemeteries.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown exceeding \$71,659)	(Unknown exceeding \$9,090)	(Unknown exceeding \$43,210)
Total Estimated Net Effect on General Revenue Fund	(Unknown exceeding \$71,659)	(Unknown exceeding \$9,090)	(Unknown exceeding \$43,210)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
State Legal Expense	\$0	\$0	\$0
Board of Registration for the Healing Arts	\$0	\$18,500	\$250
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$18,500	\$250

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	1	0.5	0.5
Total Estimated Net Effect on FTE	1	0.5	0.5

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Mental Health, Department of Revenue, and Department of Social Services** assumes the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if other similar proposals also pass, there are more cases, or the cases are more complex, there could be a fiscal impact.

Officials from the **Office of Prosecution Services (OPS)** state the proposal will have no measurable fiscal impact on the OPS. However, the potential fiscal impact on county prosecuting attorneys will depend on the extent to which law enforcement agencies choose to enforce this provision and/or are able to enforce this provision. If law enforcement agencies make arrests under this provision, there may be an impact based on the additional cases that may be filed.

Officials from the **Office of Secretary of State (SOS) - Administrative Rules Division** state the fiscal impact for this proposal is less than \$2,500. The SOS realizes this is a small amount and does not expect that additional funding would be required to meet these costs. The SOS recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of that the office can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **SOS - Business Services Division** state the number of trustees and escrow agents for which the SOS's office would serve as the registered agent for services of process, while unknown, is thought to be small. Therefore, the SOS will absorb any costs associated with accepting and processing the service.

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender costs either through incarceration (FY 08 average annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY 08 average annual cost of \$902 per offender).

ASSUMPTION (continued)

The DOC assumes the narrow scope of the crime will not encompass a large number of offenders, the low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence, and the probability exists that offenders would be charged with a similar but more serious offense and that sentences may run concurrent to one another.

Therefore, supervision through probation or incarceration would result in some additional costs, but the DOC assumes the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Elementary and Secondary Education (DES)** assume the proposal would expand the scope of the legal expense fund so far as it applies to local school nurses practicing in summer camp. The increased call on the fund's resources for legal representation would be based upon the number of actions filed. The cost is unknown.

Officials from the **Office of Attorney General (AGO)** state under the proposal, the endowed care trust fund would become a charitable trust, giving the AGO authority to pursue the trustees of those funds for any breach of fiduciary duty or Missouri law. This would include potential issues like taking the money, improper investment or failure to keep the cemetery plots maintained. The AGO assumes that in order to enforce the proposal's provisions, it would need one additional Assistant Attorney General (AAG) II. The AGO assumes FY 10 costs to the General Revenue Fund of \$65,617, FY 11 costs of \$71,183; and FY 12 costs of \$73,316.

In addition, section 105.711 adds Legal Expense Fund coverage for certain specialists. The AGO assumes because claims for malpractice or liability may be brought against the State Legal Expense Fund, this provision will create a fiscal impact. The AGO is responsible for defending claims against the State Legal Expense fund and it is unclear how many liability or malpractice claims may be filed against specialists as provided by this proposal. As a result, the AGO assumes that costs for this provision are unknown, but less than \$100,000. If the AGO experiences an increase that would require additional funding, the AGO could request the funding through the appropriations process.

Oversight assumes the AGO could absorb any costs within existing resources. If the AGO experiences an increase that would require additional funding, the AGO could request the funding through the appropriations process.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state the State Board of Registration for the Healing Arts estimates applications will begin being received in FY 11 and approximately 370 applicants will apply for certificates of controlled substance prescriptive authority at \$50 per application (370 applicants X \$50 = \$18,500). It is further assumed, five (5) applicants will apply for certificates in FY 12 for revenue of \$250 (5 applicants X \$50 fee). Licensure renewal will begin in FY 13.

ASSUMPTION (continued)

The DIFP estimates that it will incur an initial expense for the programming and implementation of this licensure category to the division's licensure system. The DIFP estimates this initial programming will occur in FY 10 and will cost approximately \$540.

The DIFP also states that having reviewed the proposed legislation and having sought the conclusion of the appropriate board(s), they are of the opinion that this fiscal note as it pertains to the Nurse Licensure Compact will not have a fiscal impact unless certain border states would become members of the compact.

The nurse would only be required to hold a license in his/her state of residence and then would be able to practice in other states that are part of the nurse license compact. There are currently 23 states in the compact. Implementation of the compact with the current states would have very little change in the number of those holding a Missouri license.

NOTE: When/if Kansas and Illinois join the nurse license compact, this could have a greater fiscal impact on revenue received for nurse licenses. Currently, there are 7,643 licensed nurses in Illinois and Kansas that have a Missouri address and 15,082 Missouri licensed nurses that have a Kansas and Illinois address. Missouri would gain 7,643 nurses and not license 15,082, for a net loss of 7,439 licensees. This breaks down to 7,054 RNs that renew in odd-numbered years, for a net loss of \$352,700 in odd-numbered years and 385 LPNs that renew in even-numbered years, for a net revenue loss of \$19,250 in even-numbered years. In addition, there is an annual nurse license compact administrator's fee of \$3,000. The revenue loss with the nurse license compact implemented was figured into the revenue projections through fiscal year 2013. Implementation of the nurse license compact will not require a license renewal fee increase assuming the revenue projections are accurate.

Oversight contacted DIFP staff regarding the status of the Nurse Licensure Compact in Illinois and Kansas. Staff told Oversight that nurse licensure compact legislation would have to go through the state legislatures of Illinois and Kansas in much the same manner as in Missouri. They did not know if legislation relating to the compact was being considered in either of those states.

Oversight assumes the State Board of Healing Arts Fund can absorb \$540 for programming and implementation of the licensure system for physician assistants to prescribe controlled substances.

Officials from the **Department of Health and Senior Services (DOH)** provide the following assumptions for this proposal:

HW-C:LR:OD

ASSUMPTION (continued)

Section 334.747

Additional registration fees for physician assistants will be generated by this legislation. This amount will be received primarily in a three-year cycle due to the three-year term of the registrations issued, except for individuals beginning to practice in Missouri in intervening years. The DOH, Division of Regulation and Licensure, assumes that 10 percent of the total number of physician assistants will qualify and apply for a three-year controlled substances registration in each year. In 2008, there were 559 physician assistant registrations in the state of Missouri. Assuming a 10 percent participation level each year, an additional \$5,040 (56 registrants X \$90 per three-year registration) would be generated through fees for controlled substances registration and deposited into the General Revenue Fund.

Office of Administration (COA), Information Technology Services Division (ITSD) Costs:

The COA-ITSD assumes one-time consultant costs for analysis, design development, testing, and implementation of the needed medications to collect and store the data will cost \$143,520. Since funding for consultant costs is contingent upon whether COA-ITSD's new decision is funded to implement SB 724 (2008), DOH assumes a range of cost from \$0 to \$143,520 for this component.

The COA-ITSD also assumes the project will require the need for one Computer Information Technology Specialist I to provide project management, development support, and administration maintenance of the application. This position would require one full-time staff the first year, and then reduced to half of a full-time position in subsequent years for ongoing maintenance to the application. This FTE is necessary even if the new decision item to implement SB 724 is funded, as this FTE will be needed to make additional system modifications to add physician assistants and provide support for the system. Standard expense and equipment costs are included for this FTE.

Based on additional discussions with DIFP and DOH staff, **Oversight** assumes 370 physician assistants will apply for certification to prescribe controlled substances. Therefore, DOH registration fees will be reported as \$33,300 (370 registrants X \$90 registration fee) for FY 11 and \$450 (5 registrants X \$90 registration fee) for FY 12. Since the DIFP assumes certifications will not begin until FY 11, it is assumed there will be no registration fees for DOH in FY 10.

Oversight assumes the DOH would not need additional rental space for 1 FTE.

Sections 335.300 to 335.355 (Nurse Licensure Compact)

Under current law, a nurse must be licensed by the State Board of Nursing in order to practice in Missouri. At the time of licensure, an educational surcharge is collected (one dollar per year for

ASSUMPTION (continued)

practical nurses and five dollars per year for professional nurses) and deposited into the Professional and Practical Nursing Student Loan and Nurse Loan Repayment Fund (required under section 335.221, RSMo), which DOH uses to support nursing student loans and loan repayments. Under this legislation, nurses licensed in another compact state, especially a contiguous state, would not be required to be licensed in Missouri, thereby reducing the funds available for this program. It is unknown how many nurses would seek to engage in the compact and no longer seek licensure in Missouri. Therefore, the DOH assumes an unknown loss of revenue to the Professional and Practical Nursing Student Loan and Nurse Loan Repayment Fund.

Oversight assumes there could be an indirect effect on the Missouri Professional and Practical Nursing Student Loan and Loan Repayment Funds/Programs. However, there would not be a direct effect on any state funds.

Officials from the **Office of Administration (COA) - Division of General Services/Risk Management (GS/RM)** did not respond to our request for a statement of fiscal impact. However, in response to similar legislation (HB 37) for Section 105.711, COA-GS/RM officials assumed the proposed changes have the potential for some increased costs to the state legal expense fund that cannot be determined at this time.

The state self-assumes its own liability protection under the state legal expense fund. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General. COA has reflected the costs affecting the general revenue fund, as general revenue funds the state legal expense fund.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Income - DOH</u>			
Controlled substance registration fees	\$0	\$33,300	\$450
<u>Costs - DOH</u>			
Personal service costs	(\$40,500)	(\$25,029)	(\$25,780)
Fringe benefits	(\$19,695)	(\$12,172)	(\$12,537)
Equipment and expense	(\$11,464)	(\$5,189)	(\$5,343)
Consultant costs	(\$0 or \$143,520)	\$0	\$0
Total <u>Costs</u> - DOH	(\$71,659 or \$215,179)	(\$42,390)	(\$43,660)
FTE Change - DOH	1.0 FTE	0.5 FTE	0.5 FTE
<u>Transfers-out to State Legal Expense Fund</u>	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown exceeding \$71,659)</u>	<u>(Unknown exceeding \$9,090)</u>	<u>(Unknown exceeding \$43,210)</u>
Estimated Net FTE Change for General Revenue Fund	1.0 FTE	0.5 FTE	0.5 FTE
STATE LEGAL EXPENSE FUND			
<u>Transfers-in from General Revenue Fund</u>	Unknown	Unknown	Unknown
<u>Costs – Office of Administration</u>			
Increased liability	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON STATE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
BOARD OF REGISTRATION FOR THE HEALING ARTS FUND			
<u>Income - DIFP</u>			
Licensure fees/renewals	<u>\$0</u>	<u>\$18,500</u>	<u>\$250</u>
ESTIMATED NET EFFECT ON BOARD OF REGISTRATION FOR THE HEALING ARTS FUND	<u>\$0</u>	<u>\$18,500</u>	<u>\$250</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small business health care providers may be negatively impacted if they pay for certification fees and controlled substance registration fees to the State and U.S. Drug Enforcement Administration for physician assistants obtaining controlled substance prescriptive authority.

FISCAL DESCRIPTION

The proposed legislation adds medical practitioners providing services to students at a summer camp to the list of health care providers for whom the State Legal Expense Fund is available for payment of certain claims filed against a provider.

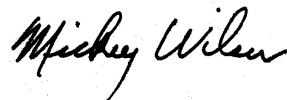
This proposal authorizes physician assistants who meet certain requirements to prescribe Schedule III, IV, or V controlled substances.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Office of Administration -
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Revenue
Department of Social Services
Office of Prosecution Services
Office of Secretary of State -
 Administrative Rules Division
 Business Services Division

NOT RESPONDING: Office of Administration - General Services/Risk Management Division



Mickey Wilson, CPA
Director
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